

An act to amend Section 6309 of the Labor Code, relating to employment.

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COPY

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 6309 of the Labor Code is amended to read:

6309. (a) If the division learns or has reason to believe that an employment or place of employment is not safe or is injurious to the welfare of an employee, it may, on its own motion, or upon complaint, summarily investigate ~~the same employment or place of employment,~~ with or without notice or hearings. However, if the division receives a complaint from an employee, an employee's representative, including, but not limited to, an attorney, health or safety professional, union representative, or government agency representative, or an employer of an employee directly involved in an unsafe place of employment, that his or her employment or place of employment is not safe, it shall, with or without notice or hearing, summarily investigate the complaint as soon as possible, but not later than three working days after receipt of a complaint charging a serious violation, and not later than 14 calendar days after receipt of a complaint charging a nonserious violation. The division shall attempt to determine the period of time in the future that the complainant believes the unsafe condition may continue to exist, and shall allocate inspection resources so as to respond first to those situations in which time is of the essence. For purposes of this section, a complaint is deemed to allege a serious violation if the division determines that the complaint charges that there is a substantial probability that death or serious physical harm could result from a condition which exists, or from one or more practices, means, methods, operations, or processes which have been adopted or are in use in a place of employment. When a complaint charging a serious violation is received from a state or local prosecutor, or a local law enforcement agency, the division shall summarily

investigate the employment or place of employment within 24 hours of receipt of the complaint. All other complaints are deemed to allege nonserious violations. The division may enter and serve any necessary order relative thereto. The division is not required to respond to a complaint within this period where, from the facts stated in the complaint, it determines that the complaint is intended to willfully harass an employer or is without any reasonable basis.

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(b) The division shall keep complete and accurate records of all complaints, whether verbal or written, and shall inform the complainant, whenever his or her identity is known, of any action taken by the division in regard to the subject matter of the complaint, and the reasons for the action, within 14 calendar days of taking any action. The records of the division shall include the dates on which any action was taken on the complaint, or the reasons for not taking any action on the complaint. The division shall, pursuant to authorized regulations, conduct an informal review of any refusal by a representative of the division to issue a citation with respect to an alleged violation. The division shall furnish the employee or the representative of employees requesting the review a written statement of the reasons for the division's final disposition of the case.

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(c) The name of a person who submits to the division a complaint regarding the unsafe condition of an employment or place of employment shall be kept confidential by the division, unless that person requests otherwise.

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(d) The division shall annually compile and release on its Internet Web site data pertaining to complaints received and citations issued.

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(e) The requirements of this section do not relieve the division of its requirement to inspect and assure that all places of employment are safe and healthful for employees. The division shall maintain the capability to receive and act upon complaints at all times. However, the division shall prioritize investigations of reports of accidents involving death or serious injury or illness and complaints that allege a serious violation over investigations of complaints that allege a nonserious violation.

LEGISLATIVE COUNSEL'S DIGEST

Bill No.

as introduced, _____.

General Subject: Employment.

Under existing law, the Occupational Safety and Health Act of 1973, the Division of Occupational Safety and Health investigates complaints that a workplace is not safe, and may issue orders necessary to ensure employee safety. The act requires the division to investigate a complaint as soon as possible, but not later than 3 working days after receipt of a complaint charging a serious violation, as specified, and not later than 14 calendar days after receipt of a complaint charging a nonserious violation. Existing law requires the division to maintain the capability to receive and act upon complaints at all times.

This bill would require the division to prioritize investigations of reports of accidents involving death or serious injury or illness and complaints that allege a serious violation over investigations of complaints that allege a nonserious violation.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.